



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
SEPTEMBER 2, 2009**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on September 2, 2009.

WEDNESDAY, SEPTEMBER 2, 2009—9:00 A.M.

- (1) S149752 Roby v. McKesson HBOC et al.
- (2) S163335 Costco Wholesale Corp. v. Superior Court of Los Angeles County (Greg Randall et al., Real Parties in Interest) (*Kennard, J., not participating; O'Leary, J., assigned justice pro tempore*)
- (3) S161385 Schachter v. Citigroup, Inc. et al. (*Kennard and Corrigan, JJ., not participating; McConnell and Ramirez, JJ., assigned justices pro tempore*)

1:30 P.M.

- (4) S166747 Johnson v. Greenelsh
- (5) S158852 People v. Stevens (Lorenzo)
- (6) S163811 People v. Concha (Reyas) and Hernandez (Julio)

GEORGE

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

WEDNESDAY, SEPTEMBER 2, 2009—9:00 A.M.

(1) *Roby v. McKesson HBOC et al.*, S149752

#07-146 Roby v. McKesson HBOC et al., S149752. (C047617; 146 Cal.App.4th 63; Superior Court of Yolo County; CV01573.) Petition for review after the Court of Appeal reversed in part and modified and affirmed in part the judgment in a civil action. This case presents the following issues: (1) In an action for employment discrimination and harassment by hostile work environment, does *Reno v. Baird* (1998) 18 Cal.4th 640, require that the claim for harassment be established entirely by reference to a supervisor's acts that have no connection with matters of business and personnel management, or may such management-related acts be considered as part of the totality of the circumstances allegedly creating a hostile work environment? (2) May an appellate court determine the maximum constitutionally permissible award of punitive damages when it has reduced the accompanying award of compensatory damages, or should the court remand for a new determination of punitive damages in light of the reduced award of compensatory damages?

(2) *Costco Wholesale Corp. v. Superior Court of Los Angeles County (Greg Randall et al., Real Parties in Interest), S163335 (Kennard, J., not participating; O’Leary, J., assigned justice pro tempore)*

#08-91 Costco Wholesale Corp. v. Superior Court of Los Angeles County (Greg Randall et al., Real Parties in Interest), S163335. (B197692; 161 Cal.App.4th 488; Superior Court of Los Angeles County; BC296369.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issues: (1) Does the attorney-client privilege (Evid. Code, § 954) protect factual statements that outside counsel conveys to corporate counsel in a legal opinion letter? (2) Does Evidence Code section 915 prohibit a trial court from conducting an in camera review of a legal opinion letter to determine whether the attorney-client privilege protects facts stated in the letter?

(3) *Schachter v. Citigroup, Inc. et al., S161385 (Kennard and Corrigan, JJ., not participating; McConnell and Ramirez, JJ., assigned justices pro tempore)*

#08-79 Schachter v. Citigroup, Inc. et al., S161385. (B193713; 159 Cal.App.4th 10; Superior Court of Los Angeles County; BC191447.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does the forfeiture provision of a voluntary incentive compensation plan, which gives employees the option of using a portion of their earnings to purchase shares in the company’s stock below market price but provides that employees forfeit both the stock and the money used to purchase it if they resign or are terminated for cause within a two-year period, violate Labor Code sections 201 or 202?

1:30 P.M.

(4) *Johnson v.Greenelsh, S166747*

#08-163 Johnson v.Greenelsh, S166747. (B198228; nonpublished opinion; Superior Court of San Luis Obispo County; PR050017.) Petition for review after

the Court of Appeal affirmed an order in a probate proceeding. This case presents the following issue: Does a proceeding to determine the competence of an individual to act under the terms of a trust trigger a no contest clause in the trust?

(5) *People v. Stevens (Lorenzo)*, S158852

#08-31 *People v. Stevens (Lorenzo)*, S158852. (A112197; 156 Cal.App.4th 537; Superior Court of Alameda County; C148565.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case includes the following issue: Did the trial court abuse its discretion in requiring a uniformed, armed deputy sheriff to sit immediately beside the defendant during his testimony?

(6) *People v. Concha (Reyas) and Hernandez (Julio)*, S163811

#08-121 *People v. Concha (Reyas) and Hernandez (Julio)*, S163811. (B195197; 160 Cal.App.4th 1441; Superior Court of Los Angeles County; BA287017.) Petition for review after the Court of Appeal modified and affirmed judgments of conviction of criminal offenses. The court limited review to the following issue: Did the trial court err in allowing the jury to return verdicts of first degree murder when the case was tried on a theory of provocative act murder?